## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

DANIEL PLEWINSKI, on Behalf of Himself and Others Similarly Situated	
Plaintiff, ]	CIVIL ACTION NO. 4:07-cv-3529
v. ]	
LUBY'S, INC. D/B/A LUBY'S,	
Defendant.	

## Joint Motion to Approve Settlement and to Dismiss With Prejudice

# I. **Basis for Motion**

On 10/25/07, Daniel Plewinski filed this case on behalf of himself and others similarly situated (hereinafter collectively referred to as "Plaintiffs"). (*Docket Entry # 1*). On 10/1/08, this Court conditionally certified this case as a collective action. (*Docket Entry # 53*). Notice was mailed to approximately 9,000 putative class members. Approximately 1,090 class members filed consents to join this case.

Following the close of the opt-in period, the Parties conducted extensive document and deposition discovery – with more than fifty (50) witnesses being deposed, tens of thousands of documents exchanged, etc. In addition, Defendant moved for summary judgment and decertification – both of which were denied by the Court.

In June 2010, the Parties attended mediation. The Parties subsequently reached a settlement of their dispute. The terms of the settlement are confidential. The terms of the settlement have been approved by the Representative Plaintiff, Plaintiffs' counsel, Defendant,

and Defendant's counsel. The settlement was negotiated at arms length, and was achieved after more than three (3) years of investigation, discovery, and negotiation. The terms of the settlement are fair, reasonable, and in the best interest of all parties.

WHEREFORE, the parties respectfully request that this Court sign the accompanying order approving the settlement and dismissing this case with prejudice per Fed. R. Civ. P. 41, as well as for such other relief, at law and in equity, to which the parties may show themselves justly entitled.

Respectfully submitted,

/s/ Richard J. (Rex) Burch

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/S/ROBERT R. DEBES, JR.

By: \_

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### /s/ M. Carter Crow

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OF COUNSEL:
GORDON & REES L.L.P.

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all counsel of record via ECF delivery on this the  $2^{nd}$  day of November 2010 as follows:

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/s/ Robert R. Debes, Jr.

ROBERT R. DEBES, JR.